

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**Instructions**

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Ken Hernandez

Petitioner

v.

Case No. _____

(Supplied by Clerk of Court)

Howard Holland

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Ken W. Santos Hernandez
 (b) Other names you have used: _____
2. Place of confinement:
 (a) Name of institution: Chester County Prison
 (b) Address: 501 S. Wawaset Rd, West Chester Pa 19380
 (c) Your identification number: 53041
3. Are you currently being held on orders by:
☐ Federal authorities ☒ State authorities ☐ Other - explain: _____
4. Are you currently:
☒ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: _____
 (b) Docket number of criminal case: _____
 (c) Date of sentencing: _____
☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☒ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Chester county Justice Center,
201 W. Market Street, West Chester Pa 19380
 (b) Docket number, case number, or opinion number: 2-1004315-1, E-1008975-2
 (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Writ of Habeas corpus

- (d) Date of the decision or action: 02/06/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: Chester county prison, 501 S. Wauaset RD., West Chester Pa. 19380
 (2) Date of filing: 12/11/24
 (3) Docket number, case number, or opinion number: _____
 (4) Result: filed a grievance, no result yet.
 (5) Date of result: _____
 (6) Issues raised: Petitioners, USC, Const., Amend. 4, illegal search and seizure, Pa. const., Art 1 § 8, Security from search and seizure and USC, const., Amend. 5, Due process of law, Pa. const., Art 1, § 9, Due process of law and USC, const., Amend. 6, the right to a speedy and public trial, Pa. const. Art 1 § 9, a speedy public trial by an impartial jury and USC, const., Amend. 6, to be confronted with the witness against him, Pa. const., Art 1 § 9, to be confronted with the witness against him and USC, const. Amend. 14, Due process of law and common law right have been violated pursuant to Pa. R. Crim P 542(c)(1)(a)
 (b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: The issuing authority may, for cause shown, grant a continuance and note the grounds for granting each continuance pursuant to Pa. R. Crim. P. 542 (b)(1)(a) and on 12/10/24, a preliminary hearing was held before the honorable Marjiam T. Vito where the grounds for granting the continuance was that the accuser was drunk and the inability to timely secure a witness.
 (a) Supporting facts (Be brief. Do not cite cases or law.):

It has been held that the inability of government to timely secure a quorum of the grand jury, standing alone, does not constitute an extraordinary circumstance justifying the continuance of a preliminary hearing. The accuser was drunk in court which is illegal and the court is shielding the accuser from prosecution.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: The warrant affidavit is invalid because it contains materially false statements which provided the essential probable cause.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On 12/17/2024, a preliminary hearing was held before the honorable Marjiam T. Vito, where the accuser knowingly made false statements with reckless disregard for the truth because one of the witnesses testified that the accuser could be seen on video surveillance trying to grab me multiple times for no reason.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: The warrant affidavit is invalid because it contains materially false statements which provided the essential probable cause.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On 12/17/24, a preliminary hearing was held where the accuser made false statements because I used non-lethal force to protect myself from threats of death and serious bodily injury, I was not the initial aggressor, I had no duty to retreat from a place where I previously resided and I was still using as a mailing address and the address is on my ID, someone who has been threatened or harmed in the past, is justified in acting more quickly or taking greater self-defense measures.

☒ Yes

☐ No

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GROUND FOUR: The warrant affidavit is invalid because it contains materially false statements which provided the essential probable cause

(a) Supporting facts (Be brief. Do not cite cases or law.):

On 12/10/2024 and 12/17/2024, the accuser was sitting next to and talking to a witness on another case B-1009304-2 and conspiring to commit perjury against me.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: I pray that the Honorable court grants me a dismissal with prejudice and any other relief to which I may be entitled to in the interest of justice.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:
02/27/25

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 02/27/25

Ken Henson

Signature of Petitioner

Signature of Attorney or other authorized person, if any

**Chester County Prison
Inmate Grievance Form**

Date of Submission: 12/11/24

Inmate Name: Ken Hernandez

Inmate ID Number: 53041 Housing Unit: K-25

Type of Grievance (check one):

- ☐ Medical ☐ Property ☐ Staff Misconduct
☐ Safety/Security ☐ Food Services ☒ Other: Law Library

Clearly and legibly provide a detailed description of the issue, list any actions taken and staff you have contacted before submitting this grievance. (include names, dates, times, any relevant facts):

My U.S.C., Const., Amend. 1, Petition the Gov. for redress grievances and my U.S.C., Const. Amend. 5, Due process of law rights and my U.S.C., Const., Amend. 6, right to a speedy trial, to be confronted with witness against him rights have been violated pursuant to 224 Pa. Code Ch 5, Rule 540 (D), the defendant shall be given copies no later than one business day after the preliminary arraignment, this stopped me from knowing of the speculative information that was introduced in the preliminary hearing, to prepare a defense, to file motions within the 14 day deadline, to respond to adversary information and motions and the advantage the prosecutor gained violates my right to access the courts. And pursuant to 18 U.S.C. § 3060 (c), Magistrate Judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay. The intake process takes 4-5 days, the request process to get a tablet takes a couple of weeks, the request process to see a counselor takes a couple of days, and the policy forced on the counselor limits me to get legal and writing material and are too restrictive in forma pauperis because there is no law library for prisoners to use for no amount of time. The Supreme Court of Nebraska said it was ok to limit Law Library to an hour. I am to be free from retaliation based on my legal activity. *Cody v. Weber*, 256 F.2d 746 (8th Cir. 2024), *Payne v. Nebraska Dept. of Corr.*, 288 Neb. 230 (Neb. 2014)

I certify that the information provided above is true and correct to the best of my knowledge. Sovereignty itself is, of course, not subject to Law, for it is the author and source of Law, *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (undersigned is sovereign and no court has challenged that status/standing)

Inmate Signature: Ken Hernandez Date: 12/11/24

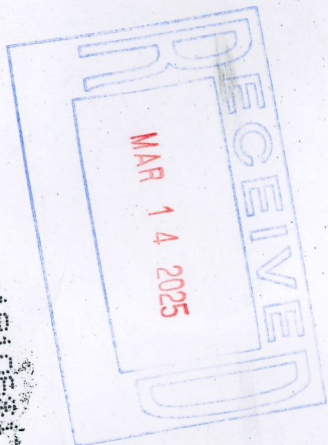
(Amend 4)

Ken Hernandez # 53041

125 + 1.25

CHESTER COUNTY PRISON

P.O. Box 247
Phoenix, MD 21131



19106-7971



OFFICE of the
United States District Court
Eastern District of Pennsylvania
601 Market Street, Room 2469
Philadelphia, Pa. 19106-7971

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